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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,594	08/11/2005	Stuart Charles Wray	038665.56185US	9463
23911 7590 09/10/2010 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300				
EXAMINER ELAHEE, MD S				
ART UNIT 2614		PAPER NUMBER		
MAIL DATE 09/10/2010		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/532,594

**Applicant(s)**

WRAY ET AL.

**Examiner**

MD S. ELAHEE

**Art Unit**

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5, 8, 10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 8, 10 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to an amendment filed 08/27/2010. Claims 1-3, 5, 8, 10 and 11 are pending. Claim 6, 7 and 9 had been previously cancelled. Claims 4, 12 and 13 have been currently cancelled.

### ***Response to Arguments***

2. Applicant's arguments mailed on 08/27/2010 Remarks have been fully considered but are moot in view of the new ground(s) of rejection which is deemed appropriate to address all of the needs at this time.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
6. Claims 1, 2, 4 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prehofer (U.S. Patent No. 6,958,974) in view of Boyd (U.S. Patent No. 6,993,013) further in view of Tezuka et al. (U.S. Pub. No. 2002/0141392).

Regarding claims 1 and 11-13, with respect to Figure 1, Prehofer teaches a method of call admission control for Voice over IP [i.e., continuous streams of data] in packet switched networks including at least two local area networks (Fig.1; DK and ZK) that are in communication with one another across a connecting network (Fig.1; ZW1 to ZW4), the method comprising the steps of:

determining a demanded quality grade [i.e., acceptable packet loss rate] for a call which is to be established between two of the local area networks (col.3, lines 11-18, col.5, lines 12-45);

Prehofer further teaches comparing acknowledged quality grade [i.e., actual packet loss rate] to the demanded quality grade [i.e., acceptable packet loss rate] (col.3, lines 18-38, col.5, lines 37-45).

However, Prehofer does not specifically teach determining an actual packet loss rate for the call prior to the call being established and dropping the call to be established if the actual packet loss rate is greater than the acceptable packet loss rate. Prehofer suggests that data transmission needs to be terminated if the data service quality is being too poor (col.2, line 67-col.3, line 3). Prehofer further suggests dropping data packets of data transmission service to maintain the higher priority quality classes of data transmission service (col.6, lines 16-40, col.6, line 58-col.7, line 2). Boyd teaches determining an actual packet loss rate for the call prior to the call being established and dropping the call to be established if the actual packet loss rate is greater than the acceptable packet loss rate (fig.5C; col.15, lines 20-40). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Prehofer to incorporate the feature of determining an actual packet loss rate for the call prior to the call being established and dropping the call to be established if the actual packet loss rate is greater than the acceptable packet loss rate in Prehofer's invention as taught by Boyd. The motivation for the modification is to do so in order to discontinue a poor quality call such that a user can save cost for the call.

Prehofer further teaches wherein, prior to actually dropping the call to be established, changing the priority of the transmission of the continuous stream of data when the actual packet loss rate is not acceptable and repeating steps a) to c) (col.3, lines 27-35, 46-61, col.5, lines 45-

59). However, Prehofer in view of Boyd does not specifically teach increasing the priority of the transmission. Tezuka teaches increasing the priority of the transmission (page 9, paragraph 0133). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Prehofer in view of Boyd to incorporate the feature of increasing the priority of the transmission in Prehofer's invention in view of Boyd's invention as taught by Tezuka. The motivation for the modification is to do so in order to continue only a higher priority call such that a user can save cost for the higher priority call.

Regarding claim 2, Prehofer, as applied to claim 1, does not specifically teach determining for how long a period the actual packet loss rate has been happening and utilizing that period in deciding to drop the call. Boyd teaches determining for how long a period the actual packet loss rate has been happening and utilizing that period in deciding to drop the call (col.15, lines 20-40). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Prehofer to incorporate the feature of determining for how long a period the actual packet loss rate has been happening in Prehofer's invention as taught by Boyd for utilizing that period in deciding to drop the call. The motivation for the modification is to do so in order to estimate total packets loss for a call in a particular period of time such that the system can reduce the overflow of data traffic by dropping the call after comparing the estimated packets loss with an acceptable total number of packets loss for the call.

Regarding claim 10, Prehofer, as applied to claim 1, teaches the call to be established is being established by an initiating telephone connected to a first of the local area networks, and wherein said method is carried out by the initiating telephone (fig.1; col.5, lines 12-20).

Regarding claim 11, Prehofer, as applied to claim 1, does not specifically teach transmitting a trial burst of packets and analyzing the returned packets to determine the actual packet loss. Boyd teaches transmitting a trial burst of packets and analyzing the returned packets to determine the actual packet loss (col.15, lines 20-40). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Prehofer to incorporate the feature of transmitting a trial burst of packets and analyzing the returned packets to determine the actual packet loss in Prehofer's invention as taught by Boyd for utilizing that period in deciding to drop the call. The motivation for the modification is to do so in order to estimate total packets loss for a call in a particular period of time such that the system can reduce the overflow of data traffic by dropping the call after ensuring that loss of packet for the call is not acceptable.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prehofer in view of Boyd further in view of Tezuka et al. further in view of Kalmanek, Jr. et al. (U.S. Patent No. 7,245,610).

Regarding claim 3, Prehofer, as applied to claim 1, in view of Boyd further in view of Tezuka does not specifically teach playing a recorded announcement when the call is to be dropped. Kalmanek teaches playing a recorded announcement when the call is to be dropped

(fig.13; col.54, lines 41-58, col.55, lines 3-9). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Prehofer in view of Boyd further in view of Tezuka to incorporate the feature of playing a recorded announcement when the call is to be dropped in Prehofer's invention in view of Boyd's invention further in view of Tezuka's invention as taught by Kalmanek. The motivation for the modification is to do so in order to inform a caller about the status of the call connection such that that the caller can try again later and do other work instead of calling up the same number again and again.

8. Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prehofer in view of Boyd further in view of Tezuka et al. further in view of Kalmanek, Jr. et al. further in view of Wu (U.S. Pub. No. 2005/0147052).

Regarding claims 5 and 8, Prehofer, as applied to claim 1, in view of Boyd further in view of Tezuka further in view of Kalmanek does not specifically teach storing data relating to dropped calls for future use. Wu teaches storing data relating to dropped calls for future use (page 2, paragraphs 0024, 0027). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Prehofer in view of Boyd further in view of Tezuka further in view of Kalmanek to incorporate the feature of storing data relating to dropped calls in Prehofer's invention in view of Boyd's invention further in view of Tezuka's invention further in view of Kalmanek's invention as taught by Wu for future use. The motivation for the modification is to do so in order to record call processing failure such that troubleshooting can be done in order to correct the call processing failure. Furthermore, the modification of storing the

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dropped calls/call processing failure data and correcting the data gives additional benefit of improving overall system performance.

### *Conclusion*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MD S. ELAHEE whose telephone number is (571)272-7536. The examiner can normally be reached on MON-FRI.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, FAN TSANG can be reached on (571)272-7547. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/MD S ELAHEE/  
MD SHAFIUL ALAM ELAHEE  
Primary Examiner  
Art Unit 2614  
September 10, 2010